



PATENT  
00-S-023

#19

2672  
#17

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
CHARLES F. NEUGEBAUER )  
Serial No.: 09/536,880 )  
Confirmation No.: 3367 )  
Filed: March 27, 2000 )  
For: CONTEXT SENSITIVE SCALING )  
CIRCUIT AND METHOD )

Group Art Unit: 2672

Examiner: J. Brier

**RECEIVED**

MAR 02 2005

Technology Center 2600

PETITION REQUESTING  
WITHDRAWAL OF ABANDONMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Petitioner requests that the abandonment of the above-identified application, as set forth in the "Notice of Abandonment" mailed by the Patent and Trademark Office on December 10, 2004, be withdrawn.

A Final Office Action was mailed on October 30, 2003. In response, Petitioner timely filed a Notice of Appeal that was received in the Patent and Trademark Office on March 8, 2004. After filing this Notice of Appeal, Petitioner was required to file an Appeal Brief within a period of two months from the date of the Notice of Appeal, which period could be extended by obtaining an extension of time under 37 CFR § 1.136(a). Petitioner filed an Appeal Brief ("Appellant's Brief") along with a Petition for Extension of Time on August 9, 2004 (the first business day following August 8, 2004, which fell on a Sunday). This Appeal Brief was timely filed because it was accompanied by a petition under 37 CFR § 1.136(a) for a three-month extension of time and was mailed within five months from the date of the Notice of Appeal, was fully responsive to every ground of rejection stated by the Examiner, and complied with all of the requirements of the rules. Therefore, this application should not have been abandoned.

Adjustment Date: 12/07/2005 SDIRETA1  
05/23/2005 VBUTLER 00000001 501556 09536880  
01 FC:1460 130.00 CR

Petitioner respectfully requests withdrawal of the Notice of Abandonment. Petitioner requests that his appeal to the Board of Patent Appeals and Interferences proceed on the basis of the attached copy of the papers that were originally filed.

Submitted herewith are copies of the following:


1. Appeal Brief ("Appellant's Brief") in triplicate dated August 9, 2004 (Exhibit D), which includes an executed certificate of mailing showing a mailing date of August 9, 2004;
2. Petition for Extension of Time dated August 9, 2004 (Exhibit C), which includes an executed certificate of mailing showing a mailing date of August 9, 2004;
3. Transmittal dated August 9, 2004 (Exhibit B);
4. Return postcard dated August 9, 2004 (Exhibit A);
5. Declaration (Exhibit E) containing a statement attesting on a personal knowledge basis to the previous timely mailing as required by 37 C.F.R. § 1.8(b)(3); and
6. Notice of Abandonment dated December 10, 2004 (Exhibit F).

As no defect exists in Petitioner's previous submission, Petitioner has not enclosed a fee payment. However, should consideration of this Petition require payment of a fee, the Office is authorized to charge such fee to Deposit Account No. 50-1556.

An Examiner's Answer is respectfully requested.

Date: February 8, 2005

Respectfully submitted,

By:   
Stephen Bongini  
Registration No. 40,917  
Attorney for Petitioner

**FLEIT, KAIN,  
GIBBONS, GUTMAN,  
BONGINI & BIANCO P.L.**  
ATTORNEYS AT LAW

Miami • Fort Lauderdale • Boca Raton

Fleit, Kain, Gibbons, Gutman,  
Bongini & Bianco P.L.  
One Boca Commerce Center  
551 Northwest 77<sup>th</sup> Street, Suite 111  
Boca Raton, Florida 33487  
Telephone: (561) 989-9811  
Facsimile: (561) 989-9812  
email: kschlosbon@FocusOnIP.com

## TELECOPIER TRANSMITTAL FORM

**DATE:** September 14, 2005  
**TO:** USPTO - Office of Finance / Refund Branch  
**FAX #:** (571) 273-6500  
**Phone #:** (571) 272-6500  
**FROM:** Kathleen Schlosbon

**TOTAL NUMBER OF PAGES: 5**  
**(INCLUDING THIS PAGE)**

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**RE: Request for Refund  
May 2005 Statement  
Deposit Account No. 50-1556**

Dear Sir/Madam:


Upon review of the May 2005 Deposit Account Statement for Deposit Account No. 50-1556, we noticed the following error:

<u>DATE POSTED</u>	<u>SERIAL NO.</u>	<u>CHARGES</u>
5/23/05	09/536,880	\$130.00

The above-referenced petition fee should not have been charged because there was no defect in our earlier submission and no error on our part. Enclosed is a copy of the Decision on Petition which states that our petition was granted and that no fee was required. Accordingly, please immediately credit our deposit account in the amount of \$130.00.

Certainly contact us if you have any questions.

Sincerely,

  
Kathleen Schlosbon  
Patent Paralegal

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## Deposit Account Statement

Page 1 of 2


**United States  
Patent and  
Trademark Office**
**Deposit Account Statement**

Requested Statement Month: May 2005  
 Deposit Account Number: 501556  
 Name: FLEIT, KAIN, GIBBONS, GUTMAN & BONGINI P.L.  
 Attention: JON GIBBONS  
 Address: ONE BOCA COMMERCE CENTER  
 City: BOCA RATON  
 State: FL  
 Zip: 33487  
 Country: UNITED STATES OF AMERICA

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
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05/02	67	09794484	ARC920000129	1251	\$110.00	\$4,820.00
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05/03	190	11031349	03-GVA-147	1111	\$500.00	\$8,318.00
05/03	191	11031349	03-GVA-147	1311	\$200.00	\$8,118.00
05/03	192	11031349	03-GVA-147	1202	\$300.00	\$7,818.00
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05/05	300	11120337	1740-P0004	2011	\$150.00	\$7,473.00
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05/08	30	29191196	588-D0001	2012	-\$100.00	\$7,223.00
05/06	31	29191196	588-D0001	2017	\$100.00	\$7,123.00
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05/09	71	10430459	6391-49	1504	\$300.00	\$6,123.00
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05/13	2	10515957	635-10002-US	2610	\$395.00	\$6,228.00
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05/16	12	10463010		1504	\$300.00	\$4,528.00

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## Deposit Account Statement

Page 2 of 2

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05/27 61	10685654	ROC920030233US1	1801	\$780.00	\$6,810.00
05/31 25	09468621	21026.09	2801	\$395.00	\$6,415.00
05/31 26	09468621	21026.09	2251	\$60.00	\$6,355.00

START  
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SUM OF  
CHARGES  
\$17,275.00

SUM OF  
REPLENISH  
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END  
BALANCE  
\$6,355.00

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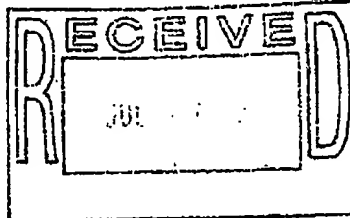
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UNITED STATES PATENT AND TRADEMARK OFFICE

00-S-023

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TECHNOLOGY CENTER 2600

In re Application of  
Charles F. Neugebauer  
Application No. 09/536,880  
Filed: March 27, 2000  
For: CONTEXT SENSITIVE SCALING  
DEVICE AND METHOD

## DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed February 14, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application became abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed March 1, 2004. A Notice of Abandonment was mailed on December 10, 2004.

Petitioner alleges to have timely filed a proper response on August 9, 2004. In support, petitioner has provided as evidence, copies of the appeal brief (in triplicate) and a copy of a petition for three month extension of time each of which included a certificate of mailing signed by applicant's representative. In addition, Petitioner also provides a transmittal letter and a declaration by applicant's representative, attesting to the timely mailing of the appeal brief.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

A review of the file record does not reveal the original appeal brief submission. However, petitioner has complied with the requirements set forth in 37 C.F.R. §1.8(a) above.

Accordingly, the petition is GRANTED.

Received

JUL 14 2005

Fleit, Kain et al.


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Application serial Number: 09/536,880  
Decision on petition

page 2

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for entry of the appeal brief. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.



Dwayne D. Bost  
Special Program Examiner  
Technology Center 2600  
Communications

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